

Remarks

Applicant hereby responds to the official action of March 5, 2009.

In the official action, an objection is made to the drawings on the ground that the drawings are missing. However, there are several copies of the drawings present in the official record. Copies of the drawings are found, at least, in the record copy of international application PCT/EP2004/014660, and in the documents submitted by applicant under §371 when entering the US national phase. These papers are part of the IFW system. The PTO printed the drawings when the application was published as US2007/0151613. The drawings are not missing.

For some reason, the PTO apparently did not separate the drawings out of the international application "pamphlet" or even from applicant's submission under §371 when entering the national phase, to establish a separate IFW line entry entitled "drawings." The specification, claims and abstract that were adjacent parts of the same documents were separated and given an IFW line entry. The objection to the drawings is not due to any shortcoming of applicant's filing, but rather is some error of the PTO.

Applicant proposes to overcome the official objection by submission of substitute drawings, which are filed concurrently, labeled as such. No new matter is presented because the drawings were indeed present as of the international filing date and as of entry into the US national phase. Applicant requests withdrawal of the objection to the drawings. Applicant further requests an official retraction of any implication that the drawings were not properly filed, and of record, as of the international filing date.

Claims 2-13 and 15-17 were withdrawn from consideration as nonelected. The Examiner acknowledges that applicant identified a number of these claims as reading on the elected species (Fig. 1). The claims nevertheless were withdrawn from consideration due to dependence from nonelected claim 2.

Applicant has canceled the nonelected claims that depended from claim 2, and has added new claims 18-24, which depend from elected claim 1. No new matter is presented.

New claim 18 corresponds to claim 5 and is in independent form. Claim 5 was found in the international search report to contain novelty and inventive step.

New claims 19-24 correspond respectively to claims 3, 5, 8, 9, 10 and 17. These claims depend directly or indirectly from claim 1, and all read on the elected species of Fig. 1.

Claims 1 and 14 were rejected under 35 U.S.C. §102(b) as anticipated by FR 2,466,692, cited in the PCT international search report. In the official action, it is said that the pertinence of FR '692 is readily apparent. However, no explanation has been provided in the official action as to how FR '692 is considered to meet the limitations of the invention as defined in claims 1 and 14. In fact, FR '692 does not meet the invention defined in the claims that were examined.

Claim 1 as originally presented and examined recited a connection of the operating grip to the operating shaft using a locking device that does not act between the operating grip and the operating shaft. The rejection made under 35 U.S.C. §102, which says that the pertinence of the reference is readily apparent, fails to explain the grounds of the rejection as required by 35 U.S.C. §132(a). In particular, there is no explanation pointing to any part of FR '692 that can be regarded as a locking device as claimed. Applicant requests that if any further official action is taken based on FR '692, that such further action be non-final, so that applicant is given the opportunity to respond to stated grounds of rejection as required by 35 U.S.C. §132(a).

The configuration shown in FR '692 is only superficially similar to applicant's invention. FR '692 comprises an operating grip that is attached to an operating shaft. FR '692 is not arranged such that the operating grip is secure against removal due to a locking device that does not act between the operating grip and the operating shaft. Instead, FR '692 directly attaches the operating grip to the operating handle by an axially threaded nut placed over an end of the operating shaft that extends into the hollow part of the operating grip, covered by an end cap. FR '692 is pertinent, if at all, as an example of how the prior art fails to disclose or suggest the claimed invention.

The document cannot be regarded as an anticipation under 35 U.S.C. §102(b) and the official action lacks an explanation of how it might be regarded as such.

Applicant's invention is directed to providing a configuration by which an operating grip is operatively coupled to the operating shaft but not by a direct connection as in FR '692. Applicant uses a locking device comprising a locking element that is fixed to the valve body, not to the operating handle or operating shaft, and yet prevents removal of the operating handle from the operating shaft. FR '692 does not anticipate the claimed invention. Nor is there any basis to believe that the invention claimed as a whole would have been obvious.

There are a number of unexpected advantages from applicant's claimed invention, generally discussed in the specification from page 2, line 16 to page 4, line 26 (paragraphs [0011] to [0022] as published). A number of embodiments are possible and are discussed. In the elected embodiment, which is exemplary, the operating element is shaped, for example, with a flange 10 as shown in Fig. 1. The flange 10, and therefore the operating grip 8 as a whole, are captured on the operating shaft 7 of the mixing cartridge 3, by a locking element that is not affixed to the operating element 8, and instead is affixed to the body 1 of the sanitary fitting valve. In the elected embodiment and in claims 18 and 20, the locking element comprises the outlet-defining part 11, which is affixed to body 1 in the example, by screws 13.

FR '692 fails to disclose or suggest an arrangement as claimed for affixing the operating grip of a joystick-type controller to the operating shaft on which the operating grip is fitted, without using a locking element that interacts with the operating shaft, such as an end nut as in FR '692 or other similar alternatives such as a set screw.

Referring to Fig. 1 of FR '692, it can be seen that the adjusting lever 30 has an operating grip in the form of a hollow handle 31 that fits over the free end of the operating shaft. A nut is threaded onto the end of the operating shaft inside the handle, for affixing the operating grip directly to the operating shaft.

In FR '692, the operating grip has a flange 43. The flange 43 is not engaged by a locking element of a locking device that causes the operating grip to remain on the

operating shaft. Such retention is obtained by the nut contained within the hollow handle of FR '692.

The structures that are arranged adjacent to the flange 43 in FR '692 are not configured to retain the operating grip. There is no need to retain it because it is otherwise retained by the nut in the handle. There is virtually no overlap over the edge of the flange at the extreme of lever travel shown in Figs. 1 and 2. The description in FR '692 describes the cap 34 as having an opening which is provided with a joint comprising Teflon. See page 9, line 10 of FR '692. Teflon is a plastic material used to make a sliding seal with the dome-shaped flange and does not represent or suggest a structural locking element. The sentence beginning at page 9, line 11 of FR '692 may be translated, "The cooperation of the joint of Teflon with the hood 33 has an object to conceal the ball-and-socket joint of the control handle and also to protect it against dust."

The Teflon seal in FR '692 is not configured to prevent removal of the operating grip from the operating lever. Apart from the nut on the end of the operating lever, that affixes the operating grip directly to the operating lever using a fastener, the structure is not capable of preventing removal of the operating grip from the operating lever. The claims are not anticipated by FR '692.

Nor is there any reason to consider the invention claimed as a whole to have been obvious. The routine and obvious way to affix one part to another part is to affix them together directly, i.e., to use a locking element such as a screw, pin, nut or the like, engaging between the same parts that are to be attached together. For example, the nut in FR '692 is routine direct affixation. A screw threaded in one of the operating grip and the operating lever would be routine. A cotter pin or split C-ring clasp or other such fastening would be routine.

The claimed invention is not routine. There is no reason to believe that a person of ordinary skill who needed to attach a joystick handle of a sanitary fitting onto the operating shaft of a mixing valve, would consider it likely that an improved or beneficial result might be achieved, not by attaching together the handle and shaft, but instead by

configuring other surrounding parts so that when the surrounding and surrounded parts have been assembled, the handle that needed to be operatively joined to the shaft is made captive to the shaft due to the configuration of the surrounding parts. There is no basis to believe that the claimed invention would be obvious.

With the exception of claim 18, the claims as amended depend directly or indirectly from claim 1. Claim 1 is not anticipated by FR '692. Claim 1 defines an arrangement that is inventively different from the prior art by a degree that exceeds the level of routine skill. Applicant has identified a deficiency in known joystick-handle valve structures, particularly when the joystick is relatively small, and has solved it in an unexpected way, namely by causing the operating grip and operating shaft of a joystick mixing valve to become effectively mated to one another, but are not affixed directly, because a locking element affixed to the valve body rather than to the handle or shaft, serves to confine the operating grip into position on the operating shaft.

Independent claim 18 further recites that the locking element is part of the outlet part of the sanitary fitting. This aspect is also unknown from the prior art and is patentable of its own account as recognized in the PCT search report.

Claim 1 is a generic claim and is allowable. The differences between claim 1 and the prior art are such that the invention claimed as a whole is not shown to have been known or obvious. Independent claim 18 is likewise allowable. The remaining claims depend from claim 1. Applicant requests reconsideration and allowance of claims 1 and 18, rejoinder of the claims depending from claim 1 that have been withdrawn from consideration as nonelected, and allowance of all the pending claims.

Respectfully submitted,

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